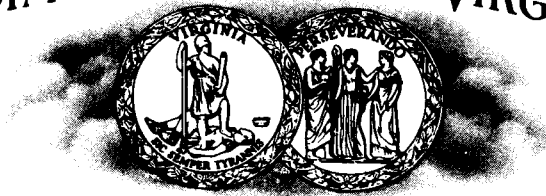


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STATE CORPORATION COMMISSION

May 14, 1997

The Honorable John D. Dingell, Ranking Member
Commerce Committee Democratic Office
564 Ford House Office Building
U.S. House of Representatives
Washington, D.C. 20515

Re: Letter of April 10, 1997
Electric Utility Industry Legislation

Dear Congressman Dingell:

The Virginia State Corporation Commission ("SCC") supplies the following responses to the questions regarding electric utility industry legislation contained in your letter of April 10 to Chairman HULLIHEN WILLIAMS MOORE, who has asked me to compile the SCC's responses. The Commission fully agrees with your statement that this is "a complex policy area, and it is important to have as full an understanding of the facts as possible[.]" The SCC has several dockets and investigations currently pending in an attempt to further our understanding of the issues. Clear and concise answers to many questions are not yet apparent, but the following answers may be of some help to the Committee.

1. Neither the SCC, nor the Virginia General Assembly, has adopted retail competition. The SCC has dockets open for the purpose of consideration of industry restructuring and our Staff issued an initial report last summer, a copy of which is enclosed. In addition, the Virginia General Assembly has asked the Staff to develop a "draft working model" of a restructured industry. A copy of the Joint Resolution requesting the study is attached.

2. The SCC has not asked and, to the best of our knowledge, the General Assembly has not asked Congress to enact legislation mandating retail competition, nor has either body sought Congressional action to enable or assist it in adopting retail competition. The SCC has requested Congressional action to resolve the question of spent nuclear fuel disposal.

3. The SCC believes it has, or will be given by the General Assembly, sufficient authority to resolve stranded cost issues for jurisdictional investor-owned utilities occasioned by any state action, but is less certain of its authority to resolve problems caused by preemptive federal legislation. Congress could assist the SCC by refraining from enacting

preemptive legislation mandating retail competition by a date certain. Congressional action that would be helpful would clarify the states' authority over all aspects of retail competition, including unbundled retail transmission; would enable Virginia to join with other states in regional regulatory undertakings; and would allow those states that open their markets to adopt reciprocity policies that impose reasonable restrictions against competition from suppliers in states where the market is not yet open.

4. The answer to this question can not be stated with precision, but depends on where Congress might draw the line between preemption of, and deference to, existing state authority. For example, there are statutes in Virginia, such as Code § 56-46.3, that presuppose federal regulation of exempt holding companies. If PUHCA is repealed, and state authority is not limited, such state statutes may need to be revisited. Similarly, will states be permitted to maintain certification, public and employee safety and operational regulations? Will such measures be applicable to extrajurisdictional suppliers?

5. a. The SCC is not ready to state whether constitutional issues might be raised by such legislation. Preemptive legislation generally carries a greater possibility of raising constitutional problems than does discretionary legislation.

b. The SCC is not aware of any constitutional issues raised by such legislation.

6. It is difficult to unscramble an egg. Preemptive federal legislation that fails to recognize state enactments and state differences, such as the relative size of potential stranded costs, regional transmission limitations, and local environmental conditions, could require a state to "start over," possibly creating significant customer confusion, complicating disposition of stranded cost issues, and raising numerous equity issues.

7. a. The SCC is not aware of any study that supports this conclusion. In Virginia rates are, in general, required by law to be non-discriminatory and the SCC has not permitted utilities to negotiate differentiated rates for individual customers. In 1996, the General Assembly passed an amendment to Section 56-235.2 of the Code of Virginia that permits the Commission to approve "special rates, contracts or incentives to individual customers or classes of customers," but only after issuing guidelines to "ensure that other customers are not caused to bear increased rates as a result of such special rates." No special rates have been approved. A copy of this statute is attached.

b. Customer class subsidies are subjective, in that their existence and magnitude can vary widely depending on cost allocation methodologies. The methodologies historically utilized by the SCC have generally depicted industrial and commercial customers providing some amount of subsidy to residential customers, with the largest subsidy provided by commercial customers. The SCC has attempted to eliminate these subsidies gradually over time. Currently, the level of subsidization between classes differs for the various utilities. Our largest utility, Virginia Power, has submitted a recent study in its pending alternative regulatory plan application that indicates that residential and very large industrial customers are being slightly subsidized by commercial and smaller industrial customers. Such results can

vary greatly with differing cost allocation methodologies and specific test years. Abnormal weather, for example, can greatly affect cost of service results. It should also be noted that it is undisputed that different customer classes impose different costs. As a result, rate differentials are not necessarily indicative of subsidization.

8. As shown in the attached graphs, rates in Virginia have been relatively stable in recent years, and some rates have declined. Virginia Power and Delmarva Power have seasonal rate differentials, which account for the variations in the rates shown for them. These seasonal rates are designed to send more efficient price signals to those utilities' customers. Finally, on an inflation-adjusted basis, rates have declined significantly.

9. The SCC believes that answers to the questions of how restructuring will affect shareholders and ratepayers are not now known. Restructuring is extremely complex and if rushed into without adequate analysis can have adverse consequences for ratepayers and shareholders alike. The SCC is not ready, at this time, to subscribe to the view that all electricity should be sold at market price. While an efficient market is the best mechanism for allocating a limited resource, the SCC is not yet convinced that good public policy should require electricity to be marketed as a limited resource. For example, in winter when both the demand and price of electricity are high, should those temporarily unable to meet a market price be left in the cold? As to the last part of question No. 9, the SCC believes that equity requires resolution of "stranded benefit" issues as well as stranded cost issues.

10. Virginia has not adopted retail competition, and has not addressed the issue of reciprocity.

11. Resolution of state-federal jurisdictional issues could greatly affect retail unbundling. For example, the rates charged by Independent System Operators ("ISOs") for transmission service may allocate the costs of the transmission system differently how transmission costs are currently reflected in retail rates. Federal approval of ISO rates could dictate that transmission related costs are allocated differently to retail customers, and potentially create significant cost shifts between regions and between customer classes.

12. The SCC does not believe it faces particular problems in connection with public or federal power in a restructured market. Cooperatives in Virginia obtain, in the aggregate, less than 10% of their power from federal sources. Rates for cooperative members may face some pressure if, for example, federal subsidies for such power are reduced or eliminated.

13. It is not known how preemptive federal energy legislation would affect funding requirements at the SCC, but the Telecommunications Act of 1996 has imposed tremendous new burdens on Virginia. It is unclear what impact federal legislation would have on utility taxes and regulatory funding that depends on utilities' gross receipts.

14. Securitization has been raised in one pending application and may reasonably be expected in other filings. While securitization may provide additional options for resolving stranded costs, it may impose significant risks. For example, securitization requires up-front

approval of a "pot of dollars" for future recovery. This preapproval would necessarily require projections as to the future market value of electricity and the book value of generating units, matters that are extremely difficult, if not completely impossible, to predict accurately. Consequently, the projection of the amount of stranded costs required for recovery through securitization is inherently risky.

On the other hand, rejection of securitization may falsely signal an unwillingness on the part of the regulatory agency to resolve stranded costs, and thereby raise the utility's cost of capital. Securitization proceeds could potentially be used in a manner that does not reduce debt costs or debt ratio, also raising cost of capital.

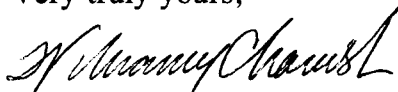
15. a. PUHCA neither impedes nor advances competition. Repeal of PUHCA would neither impede nor advance competition.

b. The SCC does not believe that PUHCA should be repealed.

c. Legislation that modified the holding in Ohio Power Co. v. FERC, 954 F.2d 779 (D.C.Cir. 1992) is appropriate.

As the SCC continues to develop analyses in its various investigations that might be helpful to the Committee or responsive to these inquiries, it will supplement these responses.

Very truly yours,



William H. Chambliss

Senior Counsel

Virginia State Corporation

Commission

cc: Chairman Hullihen Williams Moore
Commissioner Theodore V. Morrison, Jr.
Commissioner Clinton Miller